

# **PRIVACY RULES AMENDMENTS FREQUENTLY ASKED QUESTIONS**

This document attempts to address the most frequently asked questions about implementing the privacy rules amendments.

## **SOCIAL SECURITY NUMBER REDACTION AND NOTICING BASICS**

**Q1:** With the new privacy rules requiring redaction of a debtor's Social Security number (SSN), how will creditors and other parties get the full number?

*A1: The 341 meeting notice will provide recipients – the debtor, creditors, case trustee, and the US Trustee – with the debtor's full SSN. Through a new dual noticing procedure to be implemented by the Bankruptcy Noticing Center (BNC), the file copy of that notice – returned to the court by the BNC with the certificate of service – will show the redacted number.*

**Q2:** How will dual noticing for 341 meetings be accomplished?

*A2: CM/ECF will generate two versions of the 341 notice, one with a 9- digit SSN and one with just the last 4 digits. Both versions will be sent to the BNC. The 4-digit version will be returned to the court with the certificate of service for the case file.*

**Q3:** How will the redacted SSN be displayed?

*A3: The display will be in the format "xxx-xx-1234"*

## **SSN FILED LATE/AMENDED**

**Q4:** When a filing a petition, the debtor must provide a full SSN to the court either by submitting a paper Statement of Social Security (Form B21) or via electronic transmittal. If the debtor does not submit the full SSN with the petition, how will parties get the number?

*A4: Electronic Submission: Normally, when a petition is filed electronically, either through CM/ECF or case upload, that data includes the debtor's full SSN, and it will appear on recipients' 341 notices. The attorney also will docket a Statement of Social Security Number. The event is a private entry and the .PDF is not viewable by the public. For those instances when the SSN is not included, the court will send a Notice of Inadequate Filing and allow the debtor 8 days to submit the full SSN or the case will be referred to the court for dismissal.*

*Paper Submission: If the petition is a paper filing and a Form B21, Statement of Social Security Number, is not provided at the time of the filing the court will accept the petition and issue a Notice of Inadequate Filing and allow the debtor 8 days to submit the full SSN on Form B21, Statement of Social Security Number, or the case will be referred to the court for dismissal.*

Q5: If the debtor submits to the court an amended Form B21 Statement of Social Security Number later in the case how will creditors or other parties receive the new number?

*A5: Rule 1009(a) requires that the debtor give creditors notice of the amendment, and section 342(c) of the Bankruptcy Code requires that the debtor include his or her full SSN in the notice. The debtor should file a redacted copy of the notice along with a certificate of service with the court.*

## **CREDITOR ADDED**

Q6: What happens when creditors are added to a case? How do they receive the debtor's full SSN?

*A6: Rule 1009(a) requires the debtor to give the creditor the full SSN.*

## **TRUSTEE USE OF SSN & VERIFICATION**

Q7: The US Trustee requires debtors to verify their identity by bringing (1) a government-issued photo ID and (2) a Social Security card or a functional equivalent to the section 341 meeting of creditors. Currently, trustees check the number on the debtor's Social Security card against the SSN on the petition to ensure accuracy. Since the full SSN will no longer be on the petition, will the trustee continue to verify debtor SSNs at 341 meetings?

*A7: Yes, the trustees will have the information contained on the 341 notice at the meeting and an electronic copy of the debtor's Form B21 Statement of Social Security Number to use in verifying the SSN.*

## **STATEMENT OF SSN (FORM B21)**

Q8: Does the debtor's SSN have to be submitted to the court on a paper copy of Form B21, Statement of Social Security Number?

*A8: Rule 1007(f) requires a verified statement containing the debtor's SSN to be submitted with the petition, and Form B21 provides for this requirement. ECF participants will file the form electronically.*

## **PRIVACY & ACCESS TO FULL SSN**

Q9: Is Form 21 a confidential document? If someone comes to the court and requests the full SSN, will the request be denied? What if the requestor is a party in interest?

*A9: The Statement of Social Security Number is confidential. A paper copy of the form that is*

*filed with the court will be scanned and destroyed. The .PDF attachment to the text only entry on the electronic docket will be viewable by court staff only.*

Q10: If a court receives a request from someone who wants the court to verify that a Social Security number is the full SSN of the debtor, how will the clerk's office respond?

*A10: If the clerk's office is given the full SSN, it will verify that it is the number for the debtor in question.*

## **ATTORNEYS WITH OLD PETITION SOFTWARE OR PAPER FORMS**

Q11: What happens if petition software vendors don't update their programs by December 1, or if attorneys don't buy and install the updated software by then, or if attorneys who aren't ECF participants continue to use the old paper forms?

*A11: Pursuant to the directive of F.R.B.P. 5005(a) , the court will accept the petition. The court is not required to redact any personal identifiers.*

## **EIN & OTHER TAX ID NUMBERS**

Q12: The rules and forms require the use of the debtor's full EIN and any other Taxpayer ID no. except the SSN in the petition and notices. How will ECF or the BNC differentiate between an EIN (10 digits, one dash) and SSN (9 digits, 2 dashes).

*A12: The Social Security number is in a separate data field from the taxpayer ID; unless the SSN is entered in the wrong field, there is no possibility of confusion. Also, CM/ECF software requires that the SSN be entered with the dashes in a "nnn-nn-nnnn" format; if not, a message is displayed.*

Q13: In the case of sole proprietorship, where there may not be an EIN (or it may be missing) and an individual's SSN is used instead for the business identification, should the full SSN be available because in this case it equates to an EIN?

*A13: No. Even if this is a business case, it's still an individual debtor with privacy concerns. The sole proprietor's creditors didn't rely on the SSN any more than the creditors in a consumer case. The EIN and other non-SSN Taxpayer ID numbers are disclosed because they are helpful to creditors and there is no privacy interest in those numbers.*

Q14: How should a debtor's Individual Taxpayer Identification Number (ITIN) be treated if the debtor uses that number in place of a Social Security number on the petition or on Official Form 21, Statement of Social Security Number.

*A14: ITINs are used by certain aliens and others who cannot obtain a Social Security number. Like the SSN, the ITIN is a 9-digit number. Although ITINs are not addressed specifically in either Judiciary's privacy policy or in the amendments to the bankruptcy rules and forms which*

*take effect on December 1, 2003, ITINs are used in place of SSNs and function in the same way for tax processing. Accordingly, ITINs should be treated the same way as SSNs, i.e., (1) that the debtor should include the full ITIN (identified as such) on the Statement of Social Security Number, Official Form 21, if **submitted** to the court, (2) that the number should be redacted by the filer on any paper **filed** and included in the case file, and (3) the court should include the ITIN on the 341 notice, noting that it is not a SSN.*